

Senate Study Bill 1055

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON VEENSTRA)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to informed consent to an abortion and providing
2 a criminal penalty, and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2053XC 80
5 pf/cl/14

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1 1 Section 1. NEW SECTION. 146A.1 TITLE.
1 2 This chapter shall be known and may be cited as the
1 3 "Woman's Right to Know Act".
1 4 Sec. 2. NEW SECTION. 146A.2 DEFINITIONS.
1 5 As used in this chapter, unless the context otherwise
1 6 requires:
1 7 1. "Abortion" means abortion as defined in section 146.1.
1 8 2. "Attempt to perform an unlawful abortion" means an act,
1 9 or an omission of an act required by law, that constitutes a
1 10 substantial step in a course of conduct intended to culminate
1 11 in the performance of an abortion in violation of this
1 12 chapter.
1 13 3. "Department" means the Iowa department of public
1 14 health.
1 15 4. "Medical emergency" means any condition which, on the
1 16 basis of a physician's good-faith clinical judgment, so
1 17 complicates the medical condition of a pregnant woman as to
1 18 necessitate the immediate performance of an abortion to avert
1 19 the pregnant woman's death, or to necessitate the immediate
1 20 performance of an abortion to avert a serious risk of
1 21 substantial and irreversible impairment of a major bodily
1 22 function if the performance of the abortion is delayed.
1 23 5. "Physician" means a person licensed to practice
1 24 medicine and surgery pursuant to chapter 148 or osteopathic
1 25 medicine and surgery pursuant to chapter 150A.
1 26 Sec. 3. NEW SECTION. 146A.3 VOLUNTARY AND INFORMED
1 27 CONSENT.
1 28 1. An abortion shall not be performed in this state
1 29 without the voluntary and informed consent of the woman upon
1 30 whom the abortion is to be performed. Except in the case of a
1 31 medical emergency, consent to an abortion is voluntary and
1 32 informed only if the requirements of this section are met.
1 33 2. The referring physician, the physician who will perform
1 34 the abortion, or an agent of either physician shall provide
1 35 all of the following information to the woman by telephone, by
2 1 audiotape, or in person, at the time the woman initially
2 2 contacts the physician's private office or a facility that
2 3 provides abortions to inquire about or to schedule an
2 4 appointment for an abortion:
2 5 a. Information that medical assistance benefits may be
2 6 available to the woman for prenatal care, childbirth, and
2 7 neonatal care.
2 8 b. Information that the putative father is liable to
2 9 assist in the support of the child and that efforts to collect
2 10 support may result in, but are not guaranteed to result in,
2 11 financial support of the child, even if the putative father
2 12 has offered to pay for the abortion.
2 13 c. Information that the woman has the right to review the
2 14 printed materials described in subsection 3.
2 15 3. a. After being informed of the woman's right to review
2 16 printed materials pursuant to subsection 2, if the woman
2 17 wishes to review the materials, all of the following shall
2 18 apply:
2 19 (1) If the department establishes an internet site, the
2 20 woman shall be informed that the materials are available
2 21 through a state-sponsored internet site and shall be informed
2 22 of the internet site address.

2 23 (2) If the woman initially contacts the physician's
2 24 private office or a facility that provides abortions in
2 25 person, the materials shall be provided to the woman at that
2 26 time.

2 27 (3) If the woman initially contacts the physician's
2 28 private office or a facility that provides abortions by
2 29 telephone and wishes to review the materials, the materials
2 30 shall be mailed to the woman by regular mail or by restricted
2 31 certified mail, as defined in section 618.15, as requested by
2 32 the woman.

2 33 (4) The woman shall be informed that the materials have
2 34 been provided by the state and that they describe the unborn
2 35 child and list agencies that offer alternatives to abortion.

3 1 b. The printed materials shall include all of the
3 2 following:

3 3 (1) Geographically indexed materials designed to inform
3 4 the woman of public and private agencies and services
3 5 available to assist a woman through pregnancy, at the time of
3 6 childbirth, and while the child is dependent, including
3 7 adoption agencies. The materials shall include a
3 8 comprehensive list of the agencies available, categorized by
3 9 the type of services offered, and a description of the manner,
3 10 including telephone numbers, in which the agencies may be
3 11 contacted. The department may also provide a toll-free,
3 12 twenty-four-hour-a-day telephone number which may be called to
3 13 obtain, orally, a list and description of agencies in the
3 14 locality of the caller and of the services offered.

3 15 (2) Materials that encourage consideration of placement
3 16 for adoption. The materials shall inform the woman of the
3 17 benefits of adoption, including the requirements of
3 18 confidentiality in the adoption process, the importance of
3 19 adoption to individuals and society, and the state's interest
3 20 in promoting adoption by preferring childbirth over abortion.

3 21 (3) Materials designed to inform the woman of the probable
3 22 anatomical and physiological characteristics of the unborn
3 23 child at two-week gestational increments from the time that it
3 24 is medically possible to make a determination of pregnancy to
3 25 full term. The materials shall include any relevant
3 26 information regarding the possibility of the survival of the
3 27 unborn child and pictures or drawings representing the
3 28 development of the unborn child at two-week gestational
3 29 increments, provided that any pictures or drawings shall
3 30 contain the dimensions of the unborn child and shall be
3 31 realistic and appropriate for the state of pregnancy depicted.
3 32 The materials shall be objective, nonjudgmental, and designed
3 33 to convey only accurate scientific information about the
3 34 unborn child at various gestational stages. The materials
3 35 shall also contain objective information describing the
4 1 methods of abortion procedures commonly used, the medical
4 2 risks commonly associated with each such procedure, the
4 3 possible detrimental psychological effects of abortion, and
4 4 the medical risks commonly associated with carrying an unborn
4 5 child to term.

4 6 4. A physician shall not perform an abortion on a woman
4 7 unless the physician obtains written certification that the
4 8 information required pursuant to subsection 2 was provided to
4 9 the woman. The physician shall retain a copy of the
4 10 certification and shall provide a copy of the certification to
4 11 the woman.

4 12 5. a. By October 1, 2003, the department shall cause the
4 13 information described in subsection 2 to be published in
4 14 printed format. The information shall be provided in an
4 15 easily comprehensible manner. The information shall be
4 16 published in a typeface large enough to be clearly legible.
4 17 The printed information shall be available from the department
4 18 at no cost, upon request, and in an appropriate number, to any
4 19 person.

4 20 b. The department may establish and maintain an internet
4 21 site to provide the information described in subsection 2.
4 22 The internet site shall provide for confidentiality of
4 23 individuals who access the site and no information identifying
4 24 the individual shall be collected or maintained. The
4 25 department shall monitor the internet site to ensure that the
4 26 site is secure and to prevent and correct any tampering with
4 27 the site.

4 28 Sec. 4. NEW SECTION. 146A.4 PROCEDURE IN CASE OF MEDICAL
4 29 EMERGENCY.

4 30 If a medical emergency necessitates the performance of an
4 31 abortion, the physician shall inform the woman, prior to the
4 32 performance of the abortion, if possible, of the medical
4 33 indications supporting the physician's judgment that the

4 34 immediate performance of an abortion is necessary to avert the
4 35 woman's death or that a delay in the performance of an
5 1 abortion will create a serious risk of substantial and
5 2 irreversible impairment of a major bodily function.
5 3 Sec. 5. NEW SECTION. 146A.5 CRIMINAL PENALTIES.
5 4 1. A person who knowingly or recklessly performs or
5 5 attempts to perform an abortion in violation of this chapter
5 6 is guilty of a simple misdemeanor.
5 7 2. A criminal penalty shall not be assessed under this
5 8 chapter against a woman upon whom an abortion is performed or
5 9 attempted to be performed. A criminal penalty shall not be
5 10 assessed for failure of a woman to comply with the requirement
5 11 of written certification pursuant to section 146A.3, if the
5 12 department has not made the information available at the time
5 13 the physician or the physician's agent is required to inform
5 14 the woman of the woman's right to review the information.
5 15 Sec. 6. NEW SECTION. 146A.6 PROTECTION OF PRIVACY IN
5 16 COURT PROCEEDINGS == PENALTY.
5 17 1. In every criminal proceeding brought pursuant to this
5 18 chapter, the court proceedings shall be conducted in a manner
5 19 which protects the confidentiality of the woman, and all court
5 20 documents pertaining to the proceedings shall remain
5 21 confidential and shall be sealed. The court shall direct the
5 22 exclusion of individuals from courtrooms or hearing rooms to
5 23 the extent necessary to safeguard the woman's identity from
5 24 public disclosure.
5 25 2. This section shall not be construed to conceal the
5 26 identity of witnesses from the defendant.
5 27 3. A person who knowingly violates the confidentiality
5 28 requirements of this section relating to court proceedings and
5 29 documents is guilty of a simple misdemeanor.
5 30 Sec. 7. EFFECTIVE DATE. This Act takes effect October 1,
5 31 2003.
5 32 EXPLANATION
5 33 This bill establishes a new Code chapter 146A, relating to
5 34 informed consent prior to an abortion.
5 35 Code section 146A.1 provides that the chapter shall be
6 1 known and may be cited as the "Woman's Right to Know Act".
6 2 Code section 146A.2 provides definitions necessary to the
6 3 chapter.
6 4 Code section 146A.3 specifies the required informed consent
6 5 provisions, including provision of certain information to a
6 6 woman by the physician or an agent of the physician, required
6 7 certification by the woman of provision to the woman of the
6 8 required information, and receipt of the certification by the
6 9 physician prior to the performance of an abortion. The bill
6 10 requires the Iowa department of public health to publish
6 11 information relating to options for managing a pregnancy by
6 12 October 1, 2003. The bill provides that the department may
6 13 establish and maintain an internet site to provide the
6 14 information.
6 15 Code section 146A.4 provides for alternatives to providing
6 16 informed consent as required by the chapter in the case of a
6 17 medical emergency.
6 18 Code section 146A.5 provides criminal penalties. The bill
6 19 establishes a criminal penalty of a simple misdemeanor for a
6 20 person who knowingly or recklessly performs or attempts to
6 21 perform an abortion in violation of the chapter. The bill
6 22 prohibits the assessment of a criminal penalty against a woman
6 23 upon whom an abortion is performed or attempted to be
6 24 performed. The bill also prohibits the assessment of a
6 25 criminal penalty against a woman for failure to comply with
6 26 certification requirements if the department has not made the
6 27 printed materials available as required.
6 28 Code section 146A.6 provides for protection of privacy in
6 29 court proceedings relating to an action under the chapter.
6 30 The bill takes effect October 1, 2003.
6 31 LSB 2053XC 80
6 32 pf/cl/14